

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 2:18-cv-09694-MWF-MAA Date: February 5, 2019

Title Katrakazos vs. State of California

Present: The Honorable: MARIA A. AUDERO, U.S. Magistrate Judge

Cheryl Wynn
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Petitioner:
N/A

Attorneys Present for Respondent:
N/A

**Proceedings (In Chambers): Order Suspending Briefing and Ordering Petitioner to
Show Cause Why This Case Should Not Be Dismissed for
Failure to Prosecute and Lack of Personal Jurisdiction**

On January 10, 2019, the Court issued an order requiring Respondent State of California to respond to Petitioner Johnny Alberto Katrakazos’s petition for a writ of habeas corpus. (“Order,” ECF No. 5.) The Order also invited Petitioner to file a request to amend the petition to substitute as respondent the warden of the institution in which he currently is incarcerated in place of the State of California. (*Id.*) To date, Petitioner has not filed a request to amend the petition to name the proper respondent.

The proper respondent in a state habeas action is the “state officer having custody” of him. *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996) (citation and quotation marks omitted). “This person typically is the warden of the facility in which the petitioner is incarcerated.” *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). Failure to name the correct custodian as a respondent may deprive the court of personal jurisdiction over the petition. *See id.*

The Court **SUSPENDS** Respondent’s deadlines to file a motion to dismiss or an answer to the petition. Petitioner is **ORDERED TO SHOW CAUSE** why this case should not be dismissed for lack of prosecution and lack of personal jurisdiction. Petitioner shall file a written response to this Order to Show Cause within **twenty-one (21) days** after service of this order. Alternatively, the Order to Show Cause will discharge automatically if Petitioner files a request to amend the petition to name the proper respondent.

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A failure by Petitioner to timely comply with this Order will result in a recommendation that this action be dismissed without prejudice for failure to prosecute and lack of personal jurisdiction.

It is so ordered.

CW

Initials of Preparer